IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

MAURICE STREATER, Plaintiff, v. MULTI-PURPOSE CRIMINAL JUSTICE FACILITY RECORDS' SUPERVISOR, LT. PATRICK SHEETS, LT. JOHN POLK, LT. DONNA ABRAMS and AJA AIKEN, SUPERIOR CT. CLERK, Defendants.	)	Civil Action No. 01-527-SLR

Maurice Streater, Multi-Purpose Criminal Justice Facility, Wilmington, Delaware. Plaintiff, pro se.

Stuart B. Drowos, Esquire of the Delaware Department of Justice, Wilmington, Delaware. Counsel for Defendants.

MEMORANDUM OPINION

Dated: June 11, 2002
Wilmington, Delaware

ROBINSON, Chief Judge

I. INTRODUCTION

On August 3, 2001, plaintiff Maurice Streater filed a civil rights action pursuant to 42 U.S.C. § 1983 alleging that defendant Aja Aiken, Superior Court Clerk, marked on plaintiff's sentencing sheet that he was to be "committed" and, as a result, defendant Multi-Purpose Criminal Justice Facility ("MPCJF") Records' Supervisor erroneously incarcerated him at MPCJF for 28 days. (D.I. 2) In addition, plaintiff alleges that defendants Lt. Patrick Sheets, Lt. John Polk and Lt. Donna Abrams were all notified of the error marked on the record, but failed to take actions to correct the error. (Id.) Plaintiff claims that defendants' negligence for erroneously incarcerating him for 28 days at MPCJF constitutes cruel and unusual punishment under the Eighth Amendment. (Id.; D.I. 14) The court has jurisdiction over plaintiff's claims pursuant to 28 U.S.C. § 1331. Currently before the court is defendants' motion to dismiss the complaint. (D.I. 13) Since defendants submitted documents in support of their motion to dismiss, the court will review the motion as one for summary judgment. (D.I. 15) For the reasons discussed below, defendants' motion is granted.

II. BACKGROUND

On August 26, 1999, plaintiff was arrested for violating his probation. On August 27, 1999, the Superior Court of Delaware suspended plaintiff's Level V sentence for four months at the

supervision Level IV Plummer Center, followed by four years, eleven months at supervision Level III facilities. (D.I. 14 at A-7) The court also ordered plaintiff to be held at supervision Level III until space became available at the Level IV center. (Id.) However, the MPCJF Records Department focused on the word "COMMITMENT" that defendant Aiken erroneously circled on the sentencing worksheet and, as a result, plaintiff was incarcerated for 28 days at Level V-MPCJF instead. (Id. at A-1)

On September 22, 1999, the Superior Court's prothonotary's office faxed a corrected commitment/release worksheet to MPCJF, and plaintiff was subsequently released to the supervision Level IV-Plummer Center. (Id. at A-2) In July 2000, plaintiff was arrested for burglary in the second degree and sentenced to five years at MPCJF, where he is currently incarcerated. (Id. at A-12) The Delaware Department of Correction has credited 28 days to plaintiff's five year sentence. (Id. at A-2, A-18)

III. STANDARD OF REVIEW

A court shall grant summary judgment only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). The moving party bears the burden to demonstrate that no genuine issue as to any material fact is present. See Matsushita

Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 n.10 (1986). "Facts that could alter the outcome are 'material,' and disputes are 'genuine' if evidence exists from which a rational person could conclude that the position of the person with the burden of proof on the disputed issue is correct." Horowitz v. Fed. Kemper Life Assurance Co., 57 F.3d 300, 302 n.1 (3d Cir. 1995) (internal citations omitted). If the moving party has demonstrated an absence of material fact, the nonmoving party then "must come forward with 'specific facts showing that there is a genuine issue for trial.'" Matsushita, 475 U.S. at 587 (quoting Fed. R. Civ. P. 56(e)). The court will "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the party opposing the motion." Pa. Coal Ass'n v. Babbitt, 63 F.3d 231, 236 (3d Cir. 1995).

However, this standard provides that the mere existence of some alleged factual dispute between the parties will not defeat a properly supported motion for summary judgment; the function of this motion is to weigh the evidence and determine if a genuine issue is present for trial. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-49 (1986). If the nonmoving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. See Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

IV. DISCUSSION

In the case at bar, plaintiff alleges that negligence by defendants, which resulted in 28 days of erroneous incarceration at MPCJF, constitutes cruel and unusual punishment under the Eighth Amendment. Plaintiff also alleges that defendants Lts. Sheets, Polk and Abrams were all notified of the error and were aware that plaintiff should have been released, but failed to take appropriate actions to secure his timely release. (D.I. 2)

In order to establish § 1983 liability for violation of the cruel and unusual punishment clause of the Eighth Amendment when erroneous incarceration has occurred, a plaintiff must

> first demonstrate that a prison official had knowledge of the prisoner's problem and thus of the risk that unwarranted punishment was being, or would be, inflicted. Second, the plaintiff must show that the official either failed to act or took only ineffectual action under circumstances indicating that his . . . response to the problem was a product of deliberate indifference to the prisoner's plight. Finally, the plaintiff must demonstrate a causal connection between the official's response to the problem and the infliction of the unjustified detention.

Sample v. Diecks, 885 F.2d 1099, 1110 (3d Cir. 1989). Section 1983 permits recovery only when a defendant acts intentionally or with a state of mind described as deliberate indifference to deprivation of a victim's constitutional rights. See Wilson v. Seiter, 501 U.S. 294, 297 (1991). Among the circumstances

relevant to a determination of whether the requisite attitude is present are the scope of the official's duties and the role the official played in the everyday life of the prison. See Sample, 885 F.2d at 1110. "Obviously, not every official who is aware of a problem exhibits indifference by failing to resolve it." Id.

The court finds that plaintiff has demonstrated a genuine issue of material fact as to whether defendants had knowledge of his erroneous incarceration at Level V.[1] In his response to defendants' motion to dismiss, plaintiff claimed that he asked Lt. Sheets about his problem, and Lt. Sheets recommended that he "write the prothonotary's office or the records' department." (D.I. 18) Plaintiff also stated that he told Lt. Polk about his situation "at the two week mark, never to here [sic] from him or see him again." (Id.) Plaintiff further alleges that he informed Lt. Abrams about his erroneous incarceration "on three separate occasions." (Id.)

However, plaintiff has failed to show that defendants "either failed to act or took only ineffectual action under circumstances indicating that [their] response to the problem was a product of deliberate indifference." Sample, 885 F.2d at 1110. The MPCJF's Resident Orientation booklet states that "[r]esidents

[1]Based on the record presented, the court finds that defendants MPCJF Records' Supervisor and Superior Court Clerk Aiken were unaware of plaintiff's erroneous incarceration until September 22, 1999, the date on which plaintiff was released to Level IV.

with concerns [about sentence calculation] may write for assistance. Write: Unit Officer: Records Supervisor." (D.I. 14 at A-20; D.I. 19 at Ex. C) When Lt. Sheets advised plaintiff to write to the prothonotary's office or the Records Department, plaintiff failed to do so because

> he knew where the prothonotary's office was, and thought that the records department was in the same place. So concluding within himself that such a process could take weeks; and also knowing that he was illiterate, [plaintiff] continued to appeal to Lt. Sheets, but it was to no avail.

(D.I. 18) The alleged inaction of Lts. Sheets, Polk and Abrams did not rise to "deliberate indifference" because it is not within the duties of a correctional officer to contact the Records Department on behalf of an inmate to address an error in sentencing. (D.I. 14 at A-20) Plaintiff held the responsibility for contacting the appropriate personnel to address his grievances, and was ultimately successful after 28 days of incarceration, which have been credited to his present sentence. Thus, plaintiff having failed to demonstrate a genuine issue of material fact as to whether defendants acted with "deliberate indifference" to knowledge of plaintiff's erroneous incarceration, defendants' motion to dismiss is granted.[2]

[2]Plaintiff has also failed to demonstrate that defendants MPCJF Records' Supervisor and Superior Court Clerk Aiken deliberately committed plaintiff to Level V incarceration at MPCJF. The evidence suggests that plaintiff's incarceration was simply an unintentional administrative error.

V. CONCLUSION

For the reasons stated, defendants' motion to dismiss is granted. An appropriate order shall issue.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

MAURICE STREATER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 01-527-SLR
	)	
MULTI-PURPOSE CRIMINAL JUSTICE FACILITY RECORDS' SUPERVISOR, LT. PATRICK SHEETS, LT. JOHN POLK, LT. DONNA ABRAMS and AJA AIKEN, SUPERIOR CT. CLERK,	)	
	)	
Defendants.	)	

O R D E R

At Wilmington this 11th day of June, 2002, consistent with the memorandum opinion issued this same day;

IT IS ORDERED that:

1. Defendants' motion to dismiss (D.I. 13) is granted.

2. Plaintiff's motion for representation by counsel (D.I. 23) is denied as moot.

Sue L. Robinson
United States District Judge